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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/710,584	07/22/2004	Brett Pantalone	U04-0004.81	4583

24239 7590 03/08/2007  
MOORE & VAN ALLEN PLLC  
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EXAMINER
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DEAN, RAYMOND S

ART UNIT	PAPER NUMBER
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2618

SHORTENED STATUTORY PERIOD OF RESPONSE	MAIL DATE	DELIVERY MODE
3 MONTHS	03/08/2007	PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

If NO period for reply is specified above, the maximum statutory period will apply and will expire 6 MONTHS from the mailing date of this communication.

<b>Office Action Summary</b>	Application No. 10/710,584	Applicant(s) PANTALONE ET AL.	
	Examiner Raymond S. Dean	Art Unit 2618	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

#### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

- 1) ☒ Responsive to communication(s) filed on 22 July 2004.
- 2a) ☐ This action is FINAL.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

- 4) ☒ Claim(s) 1-20 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 1-10 is/are allowed.
- 6) ☒ Claim(s) 11-20 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 22 July 2004 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)  | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)   | 5) <input type="checkbox"/> Notice of Informal Patent Application                       |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)<br>Paper No(s)/Mail Date <u>0705.1106</u> . | 6) <input type="checkbox"/> Other: _____  |

## DETAILED ACTION

### *Claim Rejections - 35 USC § 101*

1. 35 U.S.C. 101 reads as follows:

Whoever invents or discovers any new and useful process, machine, manufacture, or composition of matter, or any new and useful improvement thereof, may obtain a patent therefor, subject to the conditions and requirements of this title.

2. The claimed invention, as defined in Claims 11 – 20, is directed to non-statutory subject matter.

Applicants have claimed a “computer program product”, however said “computer program product” is not encoded on a computer readable medium thus there is no interrelationship between the claimed medium and the computer to permit the “computer program product” functionality to be realized (See Pages 50 – 54 of the Interim Guidelines for Examination of Patent Applications for Patent Subject Matter Eligibility, hereafter Interim Guidelines, for guidance) thus said “computer program product” is non-statutory.

Applicants have also defined a computer readable or computer usable medium as transmission media, which includes electromagnetic, optical, and infrared (See Section 0013 of the Specification) thus any claim comprising the above computer readable or computer usable medium language can render a scenario wherein the Applicants claim a signal, which is non-statutory subject matter (Please See Page 55 of the Interim Guidelines).

***Allowable Subject Matter***

3. The following is a statement of reasons for the indication of allowable subject matter:

Brown et al. (US 2004/0266468) teaches a method of establishing a push-to-talk (PTT) connection from a mobile phone comprising: pressing and holding a PTT key on the mobile phone (Sections 0010, 0013); displaying the name of the contact on the mobile phone's display (Section 0018); releasing the PTT key on the mobile phone; and initiating a PTT connection upon release of the PTT key (Section 0019, when the user wants to communicate said user will depress the PTT key and when it is time for the user to listen said user will release the PTT key), wherein the PTT connection is from the mobile phone to the contact displayed on the mobile phone's display and uses PTT contact data in the mobile phone's memory associated with the contact name to make the PTT connection (Section 0019).

Hack et al. (US 2003/0144034) teaches a voice activated method (Section 0050), recognizing the name of a contact that has been spoken; associating the recognized name of the contact that has been spoken with an entry in the mobile phone's memory (Section 0050).

The prior art of record fails to teach or show the feature of **initiating a PTT connection upon release of the PTT key**. Claims 1 – 10 are therefore allowable.


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**Conclusion**

4. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Raymond S. Dean whose telephone number is 571-272-7877. The examiner can normally be reached on Monday-Friday 6:00-2:30.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Edward F. Urban can be reached on 571-272-7899. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

  
Raymond S. Dean  
February 28, 2007

  
EDWARD F. URBAN  
SUPERVISORY PATENT EXAMINER  
TECHNOLOGY CENTER 2600